



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-979]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Notice of Court Decision Not in Harmony with the Results of Antidumping Administrative Review; Notice of Amended Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On December 20, 2022, the U.S. Court of International Trade (CIT) issued its final judgment in *Risen Energy Co., Ltd. et al. v. United States*, Consol. Court No. 20-03743, sustaining the U.S. Department of Commerce (Commerce)'s first remand results pertaining to the administrative review of the antidumping duty (AD) order on crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the People's Republic of China (China) covering the period December 1, 2017, through November 30, 2018. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the dumping margin assigned to: (1) the mandatory respondents Risen Energy Co., Ltd., Risen (Wuhai) New Energy Co., Ltd., Zhejiang Twinsel Electronic Technology Co., Ltd., Risen (Luoyang) New Energy Co., Ltd., Jiujiang Shengchao Xinye Technology Co., Ltd., Jiujiang Shengzhao Xinye Trade Co., Ltd., Ruichang Branch, Risen Energy (Hong Kong) Co., Ltd., and Risen Energy (Changzhou) Co., Ltd. (collectively, Risen) (2) Trina Solar Co., Ltd., Trina Solar (Changzhou) Science and Technology Co., Ltd., Yancheng Trina Guoneng Photovoltaic Technology Co., Ltd (formerly, Yancheng Trina Solar Energy Technology Co., Ltd.), Changzhou Trina Solar Yabang Energy Co., Ltd., Turpan Trina Solar Energy Co., Ltd., Hubei Trina Solar Energy Co., Ltd., Trina Solar (Hefei) Science and Technology Co., Ltd.

(THFT), and Changzhou Trina Hezhong Photoelectric Co., Ltd. (collectively, Trina), and (3) certain separate rate respondents.

DATES: Applicable December 30, 2022.

FOR FURTHER INFORMATION CONTACT: Paola Aleman Ordaz, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4031.

SUPPLEMENTARY INFORMATION:

Background

On October 2, 2020, Commerce published its *Final Results* in the 2017-2018 AD administrative review of solar cells and modules from China.¹ Risen,² Trina,³ JA Solar Technology Yangzhou Co., Ltd. (JA Solar), JingAo Solar Co., Ltd., Shanghai JA Solar Technology Co., Ltd., Wuxi Tianran Photovoltaic Co., Ltd. (Wuxi), Anji DaSol Solar Energy Science & Technology Co., Ltd. (Anji DaSol), Shenzhen Sungold Solar Co., Ltd. (Shenzhen), Canadian Solar International Ltd. (Canadian Solar), Yingli Energy (China) Co., Ltd. (Yingli), and Shanghai BYD Co., Ltd. (Shanghai) challenged Commerce's final results (CIT case numbers 20-03743, 20-03757, 20-03761, 20-03797, 20-03802, 20-03804). On April 4, 2020, the court sustained Commerce's *Final Results* with respect to Commerce's primary surrogate country

¹ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2017-2018*, 85 FR 62275 (October 2, 2020) (*Final Results*), and accompanying Issues and Decision Memorandum, as amended in *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Notice of Correction to the Final Results of the 2017-2018 Antidumping Duty Administrative Review*, 85 FR 79165 (December 9, 2020) (*Amended Final Results*).

² In the *Final Results*, Commerce determined that Risen (Wuhai) New Energy Co., Ltd.; Zhejiang Twinsel Electronic Technology Co., Ltd.; Risen (Luoyang) New Energy Co., Ltd.; Jiujiang Shengchao Xinye Technology Co., Ltd.; Jiujiang Shengzhao Xinye Trade Co., Ltd., Ruichang Branch; Risen Energy (Hong Kong) Co., Ltd.; and Risen Energy (Changzhou) Co., Ltd. are affiliated and treated them as a single entity for the purpose of the dumping margin calculation.

³ *Id.* In the *Final Results*, Commerce determined that Trina Solar Co., Ltd. (TCZ); Trina Solar (Changzhou) Science and Technology Co., Ltd. (TST); Yancheng Trina Guoneng Photovoltaic Technology Co., Ltd. (formerly, Yancheng Trina Solar Energy Technology Co., Ltd.) (TYC); Changzhou Trina Solar Yabang Energy Co., Ltd. (TYB); Turpan Trina Solar Energy Co., Ltd. (TLF); Hubei Trina Solar Energy Co., Ltd. (THB); Trina Solar (Hefei) Science and Technology Co., Ltd. (THFT); and Changzhou Trina Hezhong Photoelectric Co., Ltd. (THZ) are affiliated and treated them as a single entity for the purpose of the dumping margin calculation.

selection and calculation of the surrogate financial ratios.⁴ However, the CIT remanded the *Final Results* to Commerce to reconsider, or further explain: (1) Commerce’s decision to rely on the Malaysian import value for silver paste; (2) Commerce’s application of partial facts otherwise available with an adverse inference to value missing factor of production information; (3) Commerce’s surrogate value selections for backsheet and ethyl vinyl acetate (EVA); and (4) Commerce’s calculation of the separate rate for separate rate respondents.⁵

In its final remand redetermination, issued in July 2022, Commerce: (1) valued silver paste using Malaysian import data for HS 7106.92.00 rather than HS 7115.90.1000; (2) under respectful protest, applied partial neutral facts available to value missing factor of production information instead of an adverse inference when selecting facts otherwise available when calculating Risen and Trina’s dumping margins; (3) continued to value backsheet using import data from Malaysia HS 3920.62.1000 and EVA using import data from Malaysia HS 3920.10.1900; and (4) revised the weighted-average dumping margins assigned to the separate rate respondents that participated in the litigation.⁶ On December 20, 2022, the CIT sustained Commerce’s final redetermination.⁷

Timken Notice

In its decision in *Timken*,⁸ as clarified by *Diamond Sawblades*,⁹ the U.S. Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s December 20, 2022, judgment constitutes a final

⁴ See *Risen Energy Co. v. United States*, 569 F. Supp. 3d 1315 (CIT 2022).

⁵ *Id.*

⁶ See *Final Results of Redetermination Pursuant to Court Remand, Risen Energy Co., Ltd. et al.*, Consol. Court No. 20-03743, Slip Op. 22-33 (CIT 2022), dated July 5, 2022.

⁷ See *Risen Energy Co., Ltd. et al. v. United States*, Consol. Court No. 20-03743, Slip Op. 22-148 (CIT 2022).

⁸ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

⁹ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

decision of the CIT that is not in harmony with Commerce's *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* and *Amended Final Results* as follows:

Exporter	Weighted-Average Dumping Margin (percent)
Trina Solar Co., Ltd./Trina Solar (Changzhou) Science and Technology Co., Ltd./Yancheng Trina Guoneng Photovoltaic Technology Co., Ltd./Changzhou Trina Solar Yabang Energy Co., Ltd./Turpan Trina Solar Energy Co., Ltd./Hubei Trina Solar Energy Co., Ltd./Trina Solar (Hefei) Science and Technology Co., Ltd./Changzhou Trina Hezhong Photoelectric Co., Ltd.	19.20
Risen Energy Co. Ltd./Risen (Wuhai) New Energy Co., Ltd./Zhejiang Twinsel Electronic Technology Co., Ltd./Risen (Luoyang) New Energy Co., Ltd./Jiujiang Shengchao Xinye Technology Co., Ltd./Jiujiang Shengzhao Xinye Trade Co., Ltd./Ruichang Branch, Risen Energy (HongKong) Co., Ltd./ Risen Energy (Changzhou) Co., Ltd.	25.18
Anji DaSol Solar Energy Science & Technology Co., Ltd.	23.02
Canadian Solar International Limited/Canadian Solar Manufacturing (Changshu), Inc./Canadian Solar Manufacturing (Luoyang) Inc./CSI Cells Co., Ltd./CSI-GCL Solar Manufacturing (YanCheng) Co., Ltd./CSI Solar Power (China) Inc.	23.02
JA Solar Technology Yangzhou Co., Ltd.	23.02
JingAo Solar Co., Ltd.	23.02
Shanghai BYD Co., Ltd.	23.02
Shanghai JA Solar Technology Co., Ltd.	23.02
Shenzhen Sungold Solar Co., Ltd.	23.02
Wuxi Tianran Photovoltaic Co., Ltd.	23.02
Yingli Energy (China) Company Limited/Baoding Tianwei Yingli New Energy Resources Co., Ltd./Tianjin Yingli New Energy Resources Co., Ltd./Hengshui Yingli New Energy Resources Co., Ltd./Lixian Yingli New Energy Resources Co., Ltd./Baoding Jiasheng Photovoltaic Technology Co., Ltd./Beijing Tianneng Yingli New Energy Resources Co., Ltd./Hainan Yingli New Energy Resources Co., Ltd./Shenzhen Yingli New Energy Resources Co., Ltd.	23.02

Cash Deposit Requirements

Because Risen, Trina, Anji DaSol Solar Energy Science & Technology Co., Ltd.; Canadian Solar International Limited, Canadian Solar Manufacturing (Changshu), Inc., Canadian Solar Manufacturing (Luoyang) Inc., CSI Cells Co., Ltd., CSI-GCL Solar Manufacturing

(YanCheng) Co., Ltd., and CSI Solar Power (China) Inc.; JA Solar Technology Yangzhou Co., Ltd.; Shanghai JA Solar Technology Co., Ltd.; Shenzhen Sungold Solar Co., Ltd.; Wuxi Tianran Photovoltaic Co. Ltd.; Yingli Energy (China) Company Limited, Baoding Tianwei Yingli New Energy Resources Co., Ltd., Tianjin Yingli New Energy Resources Co., Ltd., Hengshui Yingli New Energy Resources Co., Ltd., Lixian Yingli New Energy Resources Co., Ltd., Baoding Jiasheng Photovoltaic Technology Co., Ltd., Beijing Tianneng Yingli New Energy Resources Co., Ltd., Hainan Yingli New Energy Resources Co., Ltd., and Shenzhen Yingli New Energy Resources Co., Ltd. have a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). Thus, this notice will not affect the current cash deposit rate for these exporters. For JingAo Solar Co., Ltd., Shanghai BYD Co., Ltd., and exporters that do not have a superseding cash deposit rate, Commerce will issue revised cash deposit instructions to CBP.

Liquidation of Suspended Entries

At this time, Commerce remains enjoined, by orders of the CIT, from liquidating entries that: (1) were exported by Risen Energy Co. Ltd., Risen (Wuhai) New Energy Co., Ltd., Zhejiang Twinsel Electronic Technology Co., Ltd., Risen (Luoyang) New Energy Co., Ltd., Jiujiang Shengzhao Xinye Technology Co., Ltd., Jiujiang Shengzhao Xinye Trade Co., Ltd., Ruichang Branch, Risen Energy (HongKong) Co., Ltd., or Risen Energy (Changzhou) Co., Ltd.; Trina Solar Co., Ltd., Trina Solar (Changzhou) Science and Technology Co., Ltd., Yancheng Trina Guoneng Photovoltaic Technology Co., Ltd., Changzhou Trina Solar Yabang Energy Co., Ltd., Turpan Trina Solar Energy Co., Ltd., Hubei Trina Solar Energy Co., Ltd., Trina Solar (Hefei) Science and Technology Co., Ltd., and Changzhou Trina Hezhong Photoelectric Co., Ltd.; Anji DaSol Solar Energy Science & Technology Co., Ltd.; Canadian Solar International Limited, Canadian Solar Manufacturing (Changshu), Inc., Canadian Solar Manufacturing

(Luoyang) Inc., and CSI Cells Co., Ltd. and imported by Canadian Solar (USA) Inc.;¹⁰ JA Solar Technology Yangzhou Co., Ltd., Shanghai JA Solar Technology Co., Ltd., or JingAo Solar Co., Ltd.; Shenzhen Sungold Solar Co., Ltd.; Wuxi Tianran Photovoltaic Co. Ltd.; Shanghai BYD Co., Ltd.; Yingli Energy (China) Company Limited, Baoding Tianwei Yingli New Energy Resources Co., Ltd., Tianjin Yingli New Energy Resources Co., Ltd., Hengshui Yingli New Energy Resources Co., Ltd., Lixian Yingli New Energy Resources Co., Ltd., Baoding Jiasheng Photovoltaic Technology Co., Ltd., Beijing Tianneng Yingli New Energy Resources Co., Ltd., Hainan Yingli New Energy Resources Co., Ltd., or Shenzhen Yingli New Energy Resources Co., Ltd. (2) that were subject of the United States Department of Commerce's final determination in Final Results of Antidumping Duty Administrative Review; 2017-2018, 85 FR 62,275 (Oct. 2, 2020); (3) that were entered, or withdrawn from warehouse, for consumption during the period December 1, 2017, through November 30, 2018. These entries will remain enjoined pursuant to the terms of the injunctions during the pendency of any appeals process.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on any unliquidated entries described in the preceding paragraph, in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by the review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis*. Where an import-specific *ad valorem* assessment rate is zero or *de minimis*,¹¹ we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

¹⁰ In the *Final Results*, Commerce treated Canadian Solar International Limited, Canadian Solar Manufacturing (Changshu), Inc., Canadian Solar Manufacturing (Luoyang) Inc., CSI Cells Co., Ltd., CSI-GCL Solar Manufacturing (YanCheng) Co., Ltd., and CSI Solar Power (China) Inc. as a collapsed entity. In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, we intend to liquidate all the entries in the collapsed entity by the rate specified in this notice.

¹¹ See 19 CFR 351.106(c)(2).

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e), 751(a)(1), and 777(i)(1) of the Act.

Dated: December 29, 2022.

Lisa W. Wang,
Assistant Secretary for Enforcement and Compliance.

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